

1 BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH

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3 PUBLIC HEARING REGARDING 410 IAC 6-8.2,
4 A RULE TO ESTABLISH THE REQUIREMENTS
5 PERTAINING TO THE DISPOSITION OF EXCREMENTAL
6 AND SEWAGE MATTER THROUGH THE DESIGN,
7 INSTALLATION, CONSTRUCTION, MAINTENANCE,
8 AND OPERATION OF COMMERCIAL FACILITY,
9 RESIDENTIAL, CLUSTER, AND EXPERIMENTAL AND
10 ALTERNATIVE TECHNOLOGY ONSITE SEWAGE SYSTEMS

11 CAUSE NO. 03-04

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13 PROCEEDINGS

14 in the above-captioned matter, before Jan B.
15 Berg, Hearing Officer, taken before me, Lindy
16 L. Meyer, Jr., a Notary Public in and for the
17 State of Indiana, County of Shelby, at the
18 Seymour High School Auditorium, 1350 West
19 Second Street, Seymour, Indiana, on Wednesday,
20 August 6, 2003 at 10:09 o'clock a.m.

21 - - -

22 William F. Daniels, RPR/CP CM d/b/a
23 ACCURATE REPORTING OF INDIANA
 12922 Brighton Avenue
 Carmel, Indiana 46032
 (317) 848-0088

1 APPEARANCES:

2 ON BEHALF OF THE STATE DEPARTMENT OF HEALTH:

Burton L. Garten

3 Chris Bourke

Alan Dunn

4

5 SPEAKERS PRESENT:

6 Al Donaldson

Pat Harrison

7 Greg Furnish

Ralph Reed

8 Marlys Pedtke

John Bowen

9 John Hudson

Lonn Stuckwish

10 Thomas Greemann

Mark Spurgeon

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1 10:09 o'clock a.m.
2 August 6, 2003

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4 THE HEARING OFFICER: Good morning
5 everyone. We're ready to get started this
6 morning. This is a public hearing before the
7 Indiana State Department of Health on the 6th
8 day of August, 2003 at 10:00 a.m. in the
9 Seymour High School Auditorium, 1350 West
10 Second Street, Seymour, Indiana, and is
11 docketed before the Executive Board of the
12 Indiana State Department of Health as Cause
13 No. 03-04, a Rule to Establish the Requirements
14 Pertaining to the Disposition of Excremental
15 and Sewage Matter through the Design,
16 Installation, Construction, Maintenance, and
17 Operation of Commercial Facility, Residential,
18 Cluster, and Experimental and Alternative
19 Technology On-site Sewage Systems.

20 Notice of time and place of this
21 hearing was given as provided by law by
publishing on June 24th, 2003 in the

22 Indianapolis Star; June 25th, 2003 in the
23 Seymour Tribune; and by publishing in the

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1 Indiana Register dated July 1st, 2003. Proof
2 of publication of this notice has been received
3 by the Indiana State Department of Health, and
4 the notice and proof are now incorporated in
5 the record of this cause by reference and
6 placed in the official files of the Department.

7 My name is Jan Berg; it's B e r g. I
8 have been appointed Hearing Officer to serve in
9 this cause. There are sign-in sheets available
10 outside the auditorium. Anyone wishing to be
11 shown as appearing today on the record or
12 anyone who would like to speak today needs to
13 fill out one of these sheets and provide it to
14 me before you speak or before you leave.

15 Oral statements will be heard, and
16 written statements may be handed to me or
17 mailed to me at my office at 1010 North High
18 School Road, Indianapolis, Indiana, 46224.
19 Written comments need to be postmarked no later

20 than August 13th, 2003. All written and verbal
21 comments will be reported in my report on this
22 hearing to the Indiana State Department of
23 Health.

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1 I need to remind you today that I am
2 not the decision-making factor in this thing.
3 The only thing I do is report your comments to
4 the Board of Health, so you should address your
5 comments to the Executive Board of the Board of
6 Health. Each person who speaks for the record
7 today is requested to come to the podium on the
8 stage, to please clearly state your name and
9 identify who you represent, please also spell
10 your name.

11 Will the official reporter designated
12 for this hearing please raise your right hand?

13 (Reporter sworn.)

14 THE HEARING OFFICER: Thank you.

15 Okay. I have the sheets that people
16 have filled out at this time. I'm just going
17 to go randomly. If you've changed your mind

18 and don't want to speak, if someone's covered
19 your point, just let me know you don't wish to
20 speak at this time.

21 Al Donaldson.

22 MR. DONALDSON: Do you want me to
23 speak from up there?

6

1 THE HEARING OFFICER: Yes, please.

2 AUDIENCE MEMBER: Al, there's steps
3 on the left.

4 MR. DONALDSON: Over here?

5 AUDIENCE MEMBER: Yes, sir.

6 THE HEARING OFFICER: Making this
7 hard, aren't we?

8 MR. DONALDSON: Can you hear me?

9 AUDIENCE MEMBER: Yes.

10 MR. DONALDSON: Okay. I'm Al
11 Donaldson. I'm a soil scientist. I reside in
12 Brown County. My comments will be on the green
13 book. I've not read the material that's
14 available on the table back there this morning.
15 The first comment I had -- have -- what

16 is the actual status of this revision? Some of
17 the counties are using some of the provisions
18 of it and say they have to, when we -- I didn't
19 think we'd passed it yet, and if that's true,
20 why are we having this public hearing, except
21 that it's required by law?

22 And I think the State Board should
23 listen to some of the things that IOPA and the

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1 wastewater committee have been telling them
2 about the various provisions of this proposed
3 rule. On page four, line 121, a question about
4 who signs the site evaluation report. Now, is
5 that different from the soil profile
6 description?

7 And on page five, line 146, comments
8 to -- about GPS and measuring it from a known
9 point and doing it to scale. The GPS is a
10 measurement of a particular point. That's
11 where you are. You shouldn't have to measure
12 any scale, any other drawings to any other
13 points. That's probably the only thing that's

14 permanent out here on the landscape. Trees,
15 markers, flags, any kinds of posts, buildings
16 can all be moved by machinery.

17 Then on page five, lines 156 through
18 170, dealing with the depth that the soil
19 borings need to be made and the references to
20 the depth of the perimeter drain, it sounds
21 like you need to know the depths wherever the
22 perimeter drain goes before you know what the
23 soil type is, and that's kind of backwards, I

8

1 believe.

2 The Nitrate Leaching Index, a series of
3 pages in the back that lists many counties and
4 a soil mapping unit, it isn't consistent. We
5 have the same soil in different counties
6 that -- it may be included in there, and the
7 next county is not included.

8 And as far as the format we use for
9 preparing soil reports, I think it should be
10 the same. Different counties have different
11 pieces of paper they want filled out, and if

12 you work there, you need to fill it out the way
13 they want it filled out, and then the state has
14 a different format. We should all use one
15 format.

16 And I would add here, this would be an
17 excellent time to begin using the metric system
18 for all of our measurements. I don't think the
19 rest of the world is going to change to join
20 us, so perhaps we should join them.

21 Thank you.

22 THE HEARING OFFICER: Thank you,
23 Mr. Donaldson.

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1 Mark Spurgeon.

2 MR. SPURGEON: Can I have more
3 time? I'm going through my notes.

4 THE HEARING OFFICER: Certainly.
5 I'll come back to you.

6 Do you have some written comments, too?

7 MR. DONALDSON: Yes.

8 THE HEARING OFFICER: Thank you.

9 Pat Harrison?

10 MS. HARRISON: Good morning. I'm
11 not a Philadelphia lawyer, nor I intend to be,
12 and I read through some of this jargon and it
13 kind of confuses me. But I am a taxpayer in
14 Indiana, and I am doing a development in
15 Memphis, and we do have approval of a hundred
16 lots, which we intend to put septic tanks on,
17 and I've got a lot of money at stake, and a lot
18 of people would like to have homes there. And
19 when I read this, it sort of scares me, because
20 I'm thinking --

21 THE HEARING OFFICER: Excuse me a
22 minute.

23 MS. HARRISON: -- we have property

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1 rights, and --

2 THE HEARING OFFICER: Excuse me a
3 minute. I also talk very quickly --

4 MS. HARRISON: Okay.

5 THE HEARING OFFICER: -- but I'm
6 having a really hard time understanding you.
7 If you could slow down just a little bit --

8 MS. HARRISON: Okay.

9 THE HEARING OFFICER: -- it would

10 help.

11 MS. HARRISON: It concerns me,

12 because we want the lots to be larger and less

13 dense, and we intended to go forward with

14 septic tanks rather than the smaller-lot,

15 high-density sewer. We feel like the rural

16 community and -- if it were put in properly,

17 and from what I'm reading of this, it's going

18 to make it near impossible to be able to afford

19 the kind of system that we will have to put in,

20 and the regulation seems very inadequate as far

21 as who's actually going to be controlling the

22 situation.

23 Our local health department, of which I

11

1 was a member until recently, is not adequate to

2 handle this kind of undertaking, and our soil

3 seems to be -- we've had some fragipan,

4 et cetera, and we've used qualified engineers

5 to do our work to where I think we should be

6 able to put our septic in.

7 The new septic regulation, I don't
8 think, has been tested, and they're forcing us,
9 and I think this will obviously cost more to
10 our purchasers of our lots and just about make
11 it impossible to develop unless you're on
12 sewers, and I'm definitely against this until
13 I -- until it becomes clear. And I am a member
14 of Southern Indiana Home Builders Association,
15 and I'm on -- the state vice-president of our
16 area.

17 THE HEARING OFFICER: Okay. Thank
18 you very much.

19 Greg Furnish.

20 MR. FURNISH: Greg Furnish,
21 Southern Indiana, F u r n i s h, member of the
22 Home Builders Association of Southern Indiana,
23 area vice-president for the Home Builders

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1 Association. With the little amount of people
2 here talking, I'm going to keep it brief.

3 I hope that this Board that's making

4 these decisions looks long and hard and makes a
5 very educated decision and takes the input from
6 the soil scientists, the -- possibly the Home
7 Builders Association, the Board of Realtors,
8 and puts a well-rounded package together,
9 because as derived right now, affordable
10 housing in Southern Indiana is going to be a
11 serious situation if this is allowed to pass.

12 And many, many people in my area, and
13 more so in the northern region of Indiana, rely
14 on septic systems for housing, and this is
15 going to totally create a real large demand
16 on -- eliminate affordable housing as a whole.
17 So, please, take their time, listen to the
18 people that are presenting some facts, and make
19 a very educated decision and do not rush into
20 anything.

21 Thank you.

22 THE HEARING OFFICER: Thank you.

23 Kenny Smith.

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1 MS. HARRISON: He's not here.

2 THE HEARING OFFICER: Ralph Reed.

3 MR. REED: Hello. My name's Ralph
4 Reed. I represent Reed Excavating and Septic
5 Services out of Brown County, and I was on the
6 Wastewater Management Committee, spent several
7 hours up there trying to help make rule
8 changes, and most of it that has been changed
9 by the Wastewater Committee we can deal with, I
10 think.

11 The main thing that my concern is, is
12 monitoring experimental systems. If my
13 calculations is right, to monitor a system, as
14 the rule is written now, it would cost \$120,000
15 in sampling alone to get the system approved,
16 which this would put me out of business, or
17 anybody that's putting in experimental
18 technology.

19 Another thing that I think's very
20 important is the state licensing for all
21 installers. Instead of having to get a license
22 in each county, I think we ought to get our
23 license from the state.

1 And that's all I have. Thanks.

2 THE HEARING OFFICER: Thank you.

3 Marlys Pedtke. It's Marlys, though,
4 isn't it? I've said it wrong every time.

5 MS. PEDTKE: I'll just go ahead and
6 give you a copy right now.

7 THE HEARING OFFICER: Thank you.

8 MS. PEDTKE: Good morning, Madam
9 Hearing Officer and ladies and gentlemen in the
10 auditorium. Thank you for conducting three
11 hearings around the state on this proposed rule
12 for on-site septic systems. I am Marlys
13 Pedtke, P e d t k e, of Indianapolis, staff for
14 the Indiana Builders Association, and I am
15 presenting the comments for IBA membership
16 today. I respectfully request that these
17 comments I am making today be provided to the
18 Executive Board of the State Department of
19 Health, and it's the Executive Board to whom I
20 address these comments.

21 The Indiana Builders Association
22 respectfully requests that the Board re-call
23 LSA document 02-321, Proposed Rule for On-site

1 Septic Systems. IBA wants to be a part of the
2 team that provides Indiana with regulation for
3 on-site septic systems. We studied the
4 then-to-be-proposed rule last year. We
5 testified before you in January that this rule
6 was not ready for preliminary adoption.

7 We worked throughout the spring with
8 ISDH staff and others, notably, Wastewater
9 Management Committee, to better understand the
10 proposed rule and to rephrase many technical
11 sections so that those sections could provide
12 the regulation that was intended.

13 More recently, we met with ISDH and
14 Board, leadership and staff, to discuss and
15 better understand the legal basis as well as
16 the need for the rule. And most recently, we
17 have itemized our concerns with this proposed
18 rule, over 100 suggested changes on our part
19 alone, at the first two public hearings.
20 Wastewater Management Committee has submitted a
21 greater amount of changes, and all testimony to
22 date has asked for additional changes.

23 IBA requests the proposed rule be

1 re-called because of numerous technical
2 concerns still present within the proposed
3 rule, and the rule's significant fiscal impact
4 to the state's economy and to local government.
5 Others have asked that this rule be withdrawn.

6 If you adopt this rule, you will: Not
7 protect or improve the state's quality of
8 groundwater; cause an enormous financial impact
9 on the public and local governments; require
10 technology that is very expensive and cannot
11 guarantee compliance; be in conflict with the
12 state's groundwater quality standard; strike a
13 serious blow to housing affordability
14 throughout Indiana; render local health
15 departments legally vulnerable; circumvent due
16 process with nonspecific future requirements;
17 devalue Indiana soil through the misuse of
18 agricultural evaluation tools; make it
19 impossible to comply with the state's septic
20 rule; discourage new technology; require the
21 use of specific brand names; and break your own
22 enabling law, which requires that you adopt
23 reasonable rules.

1 Do not do this. Re-call this proposed
2 rule and insist that all stakeholders work
3 together to resolve these issues. What is to
4 prevent us from trying? We've succeeded
5 together before.

6 Thank you.

7 THE HEARING OFFICER: Thank you.

8 MS. PEDTKE: Thank you.

9 THE HEARING OFFICER: John Bowen,
10 you indicated you might like to speak.

11 MR. BOWEN: I'm John Bowen, and I'm
12 a soil scientist based in Seymour, Indiana, and
13 Bowen is spelled B o w e n.

14 It appears from what I've read under
15 the new rule that the regulations will be more
16 restrictive, primarily to the homeowner and
17 landowner. It may require larger lots. It
18 looks like there's a question on affordability
19 to the landowner, and in some sites, a lot that
20 is able to be built on a septic system
21 installed at this time would not be suitable
22 for a septic under the proposed rules.

1 State Board of Health is: Are these changes
2 based on scientific data? Under the current
3 rule, I guess another question that I have is:
4 Are systems failing currently at an
5 unsatisfactory rate? It -- from what I have
6 seen as a soil scientist, we have competent,
7 professional, certified soil scientists,
8 installers and local health department staff.

9 I have not seen information through the
10 local health departments that I've worked with
11 that we have significant problems. With a new
12 rule change, that will not eliminate any
13 problems that we might have. We will always
14 continue to have problems with septic systems.
15 It relies on the soil scientists, installer and
16 the health department staff to do their job
17 properly.

18 There are some things that happen out
19 there where we will continue to have failed
20 systems from time to time, but I guess, in my

21 opinion, I don't see an unsatisfactory rate of
22 failing systems under the new law -- or under
23 the proposed new rule, excuse me.

19

1 I don't know if we have an opportunity
2 to ask questions today, but if our local health
3 department staff person has an opportunity to
4 speak, I would be interested in his
5 observations. Do we have problems above and
6 beyond what might be expected with systems that
7 have been installed since the current rule has
8 been in effect?

9 And in my closing statement, I would
10 ask the State Department of Health and the
11 officials that are participating in new rules
12 changes to drop those and continue on with the
13 current rule that we have.

14 Thank you.

15 THE HEARING OFFICER: Thank you.

16 MR. BOWEN: You're welcome.

17 THE HEARING OFFICER: There are
18 some staff members for the Indiana State

19 Department of Health today --
20 MR. BOWEN: Okay.
21 THE HEARING OFFICER: -- here.
22 Staff, would you raise your hand or let
23 people know where you are in the audience?

20

1 They might be able to answer some of
2 your questions. Thank you.
3 Mr. Spurgeon, are you ready?
4 MR. SPURGEON: Yes.
5 THE HEARING OFFICER: Thank you.
6 MR. SPURGEON: I'm going to need
7 just a second to get ready.
8 THE HEARING OFFICER: Okay. Take
9 your time.
10 MR. SPURGEON: I need a table. Do
11 we have a table?
12 THE HEARING OFFICER: You can share
13 a corner of this one.
14 While he's getting ready, I don't have
15 anyone else that I have a piece of paper
16 indicating that they would like to speak today.

17 Was there anyone else here who would like to
18 make a comment?
19 MR. STUCKWISH: I'll make one.
20 MR. HUDSON: Yes, I'd like to make
21 one.
22 THE HEARING OFFICER: Okay.
23 MR. SPURGEON: Could someone

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1 else --
2 THE HEARING OFFICER: Do you need
3 more time to --
4 MR. SPURGEON: Yeah, that'd be
5 great if I could just -- because I have to
6 reverse this.
7 THE HEARING OFFICER: Okay. If
8 you'd like to come up, sir, you may.
9 MR. HUDSON: I filled out one.
10 THE HEARING OFFICER: Mr. Hudson;
11 is that right? I'm sorry; I put you in the
12 wrong stack.
13 MR. HUDSON: My name is John
14 Hudson, and I represent Hudson Concrete

15 Products, manufacturing concrete septic tanks.
16 I am the owner of that company, have been there
17 37 years, and my father about 25 years prior to
18 that.

19 My comments today are concerning more
20 in the technical aspects of septic systems, and
21 mainly septic tanks. I don't tend to be a
22 negative person. I think part of what we're
23 here today for is to represent our thoughts and

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1 ideas, and I feel I'm a positive person, so I'm
2 trying to represent some things I might not
3 agree with, but keeping a positive outlook, at
4 least.

5 One question that comes to mind: The
6 connectors on septic tanks, that I do agree
7 with, however, but we incorporate a method on
8 our tanks that allows for the filter -- and
9 we've been using filters for over two years --
10 to be maintained directly underneath the outlet
11 inspection hole.

12 The method by which is recommended by

13 the state now that speaks of the connectors and
14 a clamp, and then leaving that up to the
15 excavating company to hold the pipe into place
16 and try to maintain -- that the filter would be
17 directly underneath of that outlet inspection
18 plug, and I feel that that would be a drastic
19 mistake, allowing for settling and movement,
20 and then when the homeowner or the septic
21 cleaner is there and the filter is no longer
22 underneath the inspection hole, that would
23 create difficulty.

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1 I suggest some sort of device that
2 would secure that filter at all times, and not
3 that we're unique in that, but we incorporate a
4 mounting system that -- where we cast in place
5 a fitting in the tank that keeps the filter
6 intact at all times, and if that -- if we were
7 to change to a connector, that would be
8 impossible to do.

9 Another question I have, I think I read
10 clearly, is, for some of you fellows: Is the

11 minimum size of the septic tank under this new
12 rule proposed, will that be 1250 gallons? Does
13 it go from 900 gallons to 1250 gallons?

14 MR. BOURKE: (Nodded head yes.)

15 MR. HUDSON: Okay. Realizing that
16 is a significant move, and I agree with that,
17 but on behalf of all of the manufacturers in
18 the State of Indiana, I think most of us have
19 many, many 1,000-gallon septic tank forms and
20 very few of the larger forms -- well, we have
21 larger forms, but not as many. This would be
22 an extremely expensive adjustment, and if that
23 is the case, well, so be it, but I wonder if

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1 they might consider going from 900 gallons to
2 1,000 gallons for a minimum size of that tank.

3 Like some of the other fellows -- or
4 other speakers have represented today, and done
5 very well, I think the bottom line is the cost
6 of staying in business and the cost to the end
7 user. I think we need to look at that. I know
8 that some of the changes on my behalf would be

9 probably five, six hundred thousand dollars,
10 and -- if I continue to stay in business. If
11 not, I've got myself and nine other people out
12 of work. So be it.

13 Thank you.

14 THE HEARING OFFICER: Thank you
15 very much.

16 Lonn Stuckwish.

17 MR. STUCKWISH: Lonn Stuckwish,
18 representing realtors here in Jackson County
19 and homeowners.

20 Some of the concerns that I have as I
21 look through this and talk to other people and
22 tried to glean a little bit of information, it
23 seems like a lot of this may even be being used

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1 with unproven technology, new technology,
2 perhaps, that we don't even know if it's going
3 to do the job.

4 In some cases, we're in situations
5 where we've seen septic systems and that that have
6 been installed in the last couple of years, and

7 now we're reselling homes and we're saying
8 those homes or those septic systems are not up
9 to proper standards. I'm concerned what's
10 going to happen if something like this is
11 implemented. Are we going to see the same kind
12 of thing again?

13 It looks like estimates and that have
14 been running from six to seventeen thousand in
15 additional costs for a system of this type. If
16 you use a medium price, somewhere maybe around
17 ten thousand, that's a pretty large hardship on
18 the average homeowner. In this county, in
19 Jackson County, our home average sales price is
20 still somewhat under \$90,000.

21 When you look at that, we're talking
22 about an increase of 10 to 12 percent in a
23 home. That might be able to be factored in

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1 with new construction to some degree, but it's
2 still going to be a great hardship. What about
3 existing homes, homes that are found to be in
4 failure? What's going to happen? An \$80,000

5 home system's in failure. They have to spend
6 \$10,000. Those people do not have \$10,000,
7 generally, to spend to get a system in place.

8 The one bright spot -- there's not been
9 many in our economy lately, but one of the
10 bright spots has been home sales. Home sales
11 generate income in many ways, not just with the
12 home sale itself. Those people, in turn, a lot
13 of times are using remodeling, heating and air
14 people, buying new carpet, new home decoration.
15 It does generate a lot of income to our
16 economy.

17 We have got a lot of people, because of
18 low interest rates in the past couple of years,
19 that have been able to afford new homes that
20 wouldn't have before. Adding this kind of a
21 cost, or the potential of this kind of cost,
22 are going to take those people directly out of
23 the market right now. That will substantially

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1 reduce the market, and thus have -- in my
2 opinion -- have a very negative effect on not

3 only our local but the state economy as well.

4 The other thing, as we look at it and
5 we have that potential cost, what will it
6 actually do, a little more specifically, even
7 in devaluing the home market? We can see that
8 very, very strong possibility of that happening
9 as well.

10 So, I have some real major concerns
11 with moving ahead with this kind of a rule --
12 proposed rule change, because I am concerned.
13 We've seen -- already in the last year or two,
14 we've seen increased insurance for homeowners,
15 we have seen property taxes, I'm sure people
16 are fairly aware of some of the changes that
17 are taking place there. Interest rates now are
18 slightly back on the move. Compound that with
19 this kind of a change, adding maybe \$10,000, on
20 the average, to a home. What have you done to
21 our local and state economy?

22 THE HEARING OFFICER: Thank you.

23 Is there anyone else wishing to speak

1 today? If you would like to come up. Okay.
2 Thank you.

3 MR. GREEMANN: Hi. I'm Tom
4 Greemann. I'm a realtor, and I just wanted to
5 point out that Indiana already heads the nation
6 in home foreclosures, and if a home is worth,
7 say, \$70,000 and the people need to sell it and
8 they have to come up with ten to twenty
9 thousand dollars to upgrade a septic system, we
10 very well might have another foreclosed vacant
11 home in Indiana. This could lead to a huge
12 number of additional foreclosed and vacant
13 homes.

14 THE HEARING OFFICER: Thank you.

15 Mr. Spurgeon?

16 MR. SPURGEON: Hi. My name is Mark
17 Spurgeon, a farmer in Reddington. I have a 187
18 acres out there. On the back of my farm, I
19 have a sign that was produced by some concerned
20 individuals from Jennings County. It is the
21 Jennings County Rural Sewer District, and it
22 has a simple "No" on it, in the form of a
23 circle with a slash. So, in other words

1 they're saying "no" to rural sewers.

2 The reason I've come today -- I've
3 actually waited six years to come, and there's
4 some things I want to talk about. What I want
5 to talk about is because we assume that
6 someone's doing their job. We assume that if
7 you put a rural sewer system into a community,
8 that that will go someplace to where they're
9 doing their job.

10 I was a young man when I started my
11 business with a dairy. One of the first things
12 I tried to do was come up with a farm plan that
13 would cover up my lots and keep manure from --
14 that's on the open lots away from the rain, and
15 I tried to do that year after year. What I was
16 trying to do was use creative thinking. This
17 book says, on page 320, that you should use
18 creative thinking in sewer developments.

19 At a federal level, they will address
20 problems towards the farm in magazine articles
21 such as this, and they will talk about the farm
22 being a polluter, and what we're talking about
23 tonight is something that's being done as a

1 result of a perception of pollution. And there
2 are problems out there. There are problems on
3 my farm that I have to deal with, and I try to
4 control them.

5 But five years ago I came into this
6 room, and we were remodeling -- I'm a school
7 board member here -- and there was a fish
8 hanging up on the front of this, a paper fish,
9 and I asked the contractors, I said, "What's
10 the fish for?" They laughed and said, "Oh, you
11 should have been in here. There was -- all of
12 your seats here were floating around. We were
13 remodeling this. You had three foot of water
14 here one day." And I said, "What do you mean,
15 that I had three foot of water in this room?"
16 They said, "Well, you did. We pumped it out."

17 So, that became -- that become a
18 search, and I started just paying more
19 attention to the city sewer system, and what I
20 found was this story I'm about to tell you.
21 Some sewers are a mess. The city may see
22 higher sewer rates. I wrote these letters to
23 the City Council, which I'm presenting as

1 evidence here tonight.

2 THE HEARING OFFICER: Thank you.

3 MR. SPURGEON: Because what we
4 assume is that everybody's doing their job.
5 And I'm not just talking about Seymour. I'm
6 talking about Columbus, Indiana; I'm talking
7 about North Vernon; I'm talking about
8 Shelbyville; I'm talking about New Albany; I'm
9 talking about Austin; I'm talking about every
10 little community in the state has got some kind
11 of a city problem, that they want to put a
12 rural sewer system in.

13 And most of those homes are miles and
14 miles away from a river, but I can show you
15 where every city has got a pipe that goes right
16 to the river, installed to bypass pollution.
17 It's called point pollution. That's what we
18 farmers call it.

19 So, my hunt began like this. There's
20 an architectural study on the problem. There's
21 school plans. I went to the state, got these
22 informations. One of the fears in this whole

23 scenario is: You can create a rural sewer

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1 district, add more sewage to the city, and then
2 there's a fear of a sewer ban. So, this talks
3 about sewer bans.

4 I can talk to you about the State
5 Revolving Fund. This is how you should fund
6 good sewer programs. You need to use your
7 State Revolving Fund, because this comes from
8 federal matching grants. Well, sometimes our
9 politicians get a little creative. And the
10 Jennings Northwest Regional Sewer District is
11 on this, but they're not under -- in this plan,
12 there's no place for them to be, except they're
13 there. It's an unclassified spot.

14 So, my point here is that politicians
15 can be pretty creative if they really want to.
16 You go to the city, and, of course -- or
17 actually you go to EMC, and they will provide
18 you with nothing. They're a private company.
19 They cannot provide you with public
20 information. So, I have to go to the city.

21 The city doesn't know what I'm talking about,
22 and they send me back to the sewer department.
23 You call them and they say they won't give it

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1 to you, so then you go to the state.
2 So, all of this information has been
3 accumulated using the Indiana Open Door Law,
4 but I have to go to the state normally to get
5 it. And on this one, this is an IDEM report,
6 and it says -- I want to read this sentence --
7 "In some cases these calculated flow volumes
8 may be under -- or overestimated." No, folks;
9 actually they're underestimated, because you
10 have CSO's that are out of town, but when it
11 rains hard, it's backing up, it's flowing out
12 across, and you have a mixture of sewage in
13 that water a lot of times.

14 So, then you go and you get their
15 capital asset management plans. An aggressive
16 preventive maintenance program is not going to
17 clean all sewers on a regularly scheduled
18 timetable. Well, I know for a fact that this

19 sewer here wasn't cleaned forever, because it
20 was plugged up at the end of the line. There
21 was sand. I have documentation and proof.
22 So, as we create these new rules and
23 regulations, what I'm saying is that ultimately

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1 you create a rural sewer district. That's what
2 happens. If you condemn everybody's sewer
3 systems, then you'll put a rural sewer system
4 through. Well, where does it go? Are we going
5 to build rural sewer plants? No, normally
6 you'll find a city sewer system. And when you
7 do, you just create a bigger problem.

8 So, then you go and you say, "Well, if
9 I could draft this thing and totally understand
10 it, so what I need is I need rainfall amounts,"
11 so you go to the person who collects all of
12 that, and that would be Ruth Everhart, and
13 she's happy to provide you with weather
14 records. That's -- she loves doing that. This
15 is for proof that these records are true.

16 Then you go to the state and you pick

17 up all of this, and what you find is that 53
18 months out of 60, we've sent some sewage
19 downstream. Every time it rains in this town,
20 two, two and half inches, inch and a quarter,
21 depending on how fast it happens, then you send
22 sewage downstream. So, what is the -- what's
23 happening to our environment?

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1 As a farmer, I live many miles from a
2 major waterway. After this leaves my barn, it
3 has to travel a long distance. I have
4 neighbors with sewage water that drains across
5 me also, from drains and various things.

6 What I'm saying is that the state needs
7 to first -- and this is my message -- the state
8 needs to first worry about the big problems
9 before you come out here and worry about the
10 little things that, when you get all done,
11 you're still going to have the big problem that
12 you've always had.

13 You look at Indianapolis, Indiana.
14 They have serious sewer problems. Folks, the

15 Wabash is polluted. It's not been polluted by
16 a little sewage tax on three- and five-acre
17 lots. So, we have to go through a system of
18 improving the state's environment in a way that
19 makes sense.

20 In 1972, the Clean Water Act was
21 developed to help local control do a better
22 job, and that's what's happening right now.
23 When I first got involved in this -- this is

36

1 what kind of excites me about this, because I
2 started this six years ago. And when I was
3 talking to Reggie Baker and Dave Tenace -- I
4 don't know if you recognize those names or not,
5 but those are people at IDEM, and they would
6 tell me about things that would be happening in
7 the future. This meeting was one of them.

8 This all started as a federal law that
9 come about in the last year. The federal laws
10 are now kicking in and making cities like
11 Seymour create a comprehensive plan that's part
12 of a motion, but we have to have a plan of

13 action for growth.

14 Thank you.

15 THE HEARING OFFICER: Did you want
16 to leave any of that with me?

17 MR. SPURGEON: Ma'am, for the last
18 two years, I have never looked at this
19 information. For three years it bugged me real
20 bad, and two years ago I put it in my farm file
21 desk and just left it alone. So, the reason I
22 came this morning is -- but I haven't looked at
23 it for two years, so I have no copies to leave

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1 you except these letters. You're welcome to
2 any or all of it, except I would have to copy
3 it.

4 THE HEARING OFFICER: Okay. Well,
5 if you would like to copy it and mail it to me,
6 if you --

7 MR. SPURGEON: Sure.

8 THE HEARING OFFICER: -- would like
9 it to be in the record, you may do that. Did
10 you get the address at the beginning?

11 MR. SPURGEON: I'll get it before I
12 leave.
13 THE HEARING OFFICER: Okay. Thank
14 you very much.
15 MR. SPURGEON: Thank you.
16 THE HEARING OFFICER: Is there
17 anyone else here that would like to be heard?
18 MR. BOWEN: Ms. Berg?
19 THE HEARING OFFICER: Yes.
20 MR. BOWEN: Is there an opportunity
21 to ask questions and receive answers?
22 THE HEARING OFFICER: Not from
23 myself, because --

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1 MR. BOWEN: Well, I mean --
2 THE HEARING OFFICER: -- I'm not a
3 Board of Health person. I don't know --
4 MR. BOWEN: -- from some of the
5 other folks.
6 THE HEARING OFFICER: Not in a
7 public debate forum, but I'm sure that the
8 staff -- well, I'm guessing the staff people

9 here would be willing to have a discussion with
10 you and try and answer your questions.

11 Is that -- would you be willing to talk
12 to this gentleman today?

13 MR. DUNN: (Nodded head yes.)

14 MR. BOWEN: You want to do it after
15 the hearing, then?

16 THE HEARING OFFICER: Yes, please.
17 Thank you.

18 Anyone else today at all?

19 (No response.)

20 THE HEARING OFFICER: Okay. Seeing
21 and hearing no one else who cares to be heard
22 at this time, I want to thank each of you for
23 your presentation and for coming today. My

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1 report of the hearing will be in writing to the
2 Executive Board of the Indiana State Department
3 of Health for their consideration before final
4 adoption.

5 These proceedings pursuant to notice
6 are hereby concluded. This cause is therefore

7 adjourned until final order of the Executive
8 Board.

9 Thank you all for coming.

10 - - -
11 Thereupon, the proceedings of
12 August 6, 2003 were concluded
at 10:56 o'clock a.m.
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1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned
3 Court Reporter and Notary Public residing in
4 the City of Shelbyville, Shelby County,

5 Indiana, do hereby certify that the foregoing
6 is a true and correct transcript of the
7 proceedings taken by me on Wednesday, August 6,
8 2003 in this matter and transcribed by me.

9

10

11

Lindy L. Meyer, Jr.,

12

Notary Public in and

13

for the State of Indiana.

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My Commission expires October 27, 2008.

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